

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

TODD E. COOK)	
Claimant)	
VS.)	
)	Docket No. 1,008,181
SARA LEE BAKERY GROUP)	
Respondent)	
AND)	
)	
PACIFIC EMPLOYERS INSURANCE)	
Insurance Carrier)	

ORDER

Respondent and its insurance carrier appealed the February 20, 2003 preliminary hearing Order entered by Administrative Law Judge John D. Clark.

ISSUES

Claimant developed a respiratory condition that he claims was caused by working for respondent through November 18, 2002, in a dusty and humid environment.

In the February 20, 2003 preliminary hearing Order, Judge Clark granted claimant's requests for temporary total disability benefits and medical treatment. Respondent and its insurance carrier contend the Judge erred in finding that claimant was entitled to receive benefits under the Workers Compensation Act.

The only issue on this appeal is whether claimant's respiratory condition was caused by either an accident or an occupational disease directly related to his employment with respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record compiled to date, the Board finds and concludes:

The preliminary hearing Order should be affirmed.

Claimant's job duties at respondent's bakery required him to work in a dusty and extremely humid environment. Commencing in approximately March 2002, claimant began having respiratory problems. Claimant's respiratory problems gradually progressed through November 18, 2002, his last day of working for respondent. In late November 2002 claimant underwent a lung biopsy. The biopsy indicated that claimant had a talclike material in his lungs and/or some type of bacteria. Earlier x-rays also indicated claimant had pulmonary infiltrates. Although the doctors who have participated in claimant's treatment are not entirely certain, presently the greater weight of the medical evidence indicates that claimant's lung condition is probably related to, or exacerbated by, the environment in which he performed his work.

WHEREFORE, the Board affirms the February 20, 2003 preliminary hearing Order entered by Judge Clark.

IT IS SO ORDERED.

Dated this ____ day of March 2003.

BOARD MEMBER

c: R. Todd King, Attorney for Claimant
Crystal M. Nesheim, Attorney for Respondent and its Insurance Carrier
John D. Clark, Administrative Law Judge
Director, Division of Workers Compensation